

**BEFORE THE HEARINGS PANEL
FOR THE PROPOSED QUEENSTOWN LAKES DISTRICT PLAN**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Queenstown Lakes Proposed District Plan

AND

IN THE MATTER of Hearing Stream 17 – Chapter 18A – General
Industrial Zone

STATEMENT OF EVIDENCE OF NICHOLAS KARL GEDDES

ON BEHALF OF SCOPE RESOURCES LTD (FS3470)

Dated 5th June 2020

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Qualifications and Experience

- 1 My name is Nicholas Karl Geddes. I hold a degree of Bachelor of Science majoring in Geography and Graduate Diploma in Environmental Science from Otago University.
- 2 I have sixteen years' experience as a resource management practitioner, with past positions as a planner in local Government in Auckland, private practice in Queenstown and contract work in London, England. I currently hold a planning consultant position with Clark Fortune McDonald & Associates Limited.
- 3 I was employed by a Queenstown consultancy in 1999 before moving to Auckland City Council in 2001 where I held a senior planning position with Auckland City Environments. Leaving Auckland in 2005 I worked in London as a planner for two and a half years before returning to Queenstown where I have been practising as a planning consultant since.
- 4 I have been a practising consultant involved in a wide range of developments, district plan policy development and the preparation and presentation of expert evidence before Councils and the Environment Court.
- 5 I have read the Code of Conduct for Expert Witnesses in the Environment Court consolidated Practice Note (2014). I agree to comply with this Code of Conduct. This evidence is within my area of expertise, except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
- 6 I have authored submissions on Stages 1 & 2 of the plan review, prepared evidence and attended hearings in relation to the following chapters:
 - Stage 1, Chapters 4, 7, 21, 22, 27 & 41.
 - Planning Maps in relation to Submissions 314, 328, 323, 336 & 347.
 - Stage 2, Chapters 24 & 29.
- 7 I have authored submissions on Stage 3 in relation to Chapters 18A & 39

Scope of Evidence

- 8 I have prepared evidence in relation to the further submission 3470. My Evidence assesses and explains:
 - a. Background;
 - b. Trade Competition;
 - c. Direct Effects;

- 9 In the preparation of this evidence I have reviewed the following:
 - a. Stage 3 public notice of hearings, Stage 3 Section 32 Evaluation Reports and Stage 3 Council s.42A Reports.
 - b. Associated evidence submitted on behalf of QLDC prepared by Ms Natalie Hampson on NPS-UDC and economic matters, Mr Matthew Jones on landscape architecture, Mr Michael Smith on Transport, Mr Robert Bond on geotechnical engineering, Mr James Dacey on viticulture and Mr Richard Powell on infrastructure.
 - c. The relevant submissions and further submissions of other submitters.

Abbreviations:

Scope Resources Ltd - "SRL"
Cardrona Cattle Company Ltd - "CCCL"
Queenstown Lakes District Council - "QLDC"
Proposed District Plan – "PDP"
Operative District Plan – "ODP"
Resource Management Act 1991 – "RMA"

Background

Stage 3 District Plan Review

- 10 Mr Craig Barr provides a strategic planning overview explaining Council's approach to the staged review, how it is intended to work in practice and an update on recent court decisions which may have a bearing on the strategic provisions of the PDP¹. Mr Barr's evidence is consistent with QLDC's *explanation of the approach to the partial ODP review* described in the Environment Court's second interim decision on Topic 1².
- 11 Based upon Mr Barr's evidence and my involvement with Stages 1 and 2 of the District Plan Review, my understanding is that QLDC have consistently taken the approach of declining those submissions which sought to oppose a zoning being applied in Stages 1 or 2, such as (for example) the Rural Zone under the PDP, but sought as relief an ODP zoning³. These submitters were instead encouraged to re-engage in the Plan review process at later stages when ODP zonings were being reviewed. Such is the case here, where QLDC is reviewing in Stage 3, the ODP Industrial zones with consequent effect that QLDC are accepting submissions on Stage 3 which seek:
- a. amendments to the notified zone provisions; and/or
 - b. new or expanded areas of land to be rezoned, notwithstanding that such land has had its zoning settled in Stage 1⁴ (including, in this case, the upholding of Rural zoning to the land at Victoria Flats the subject of my evidence).
- 12 In my opinion a better approach would have been to require anyone opposed to a Stage 1 zoning and seeking an ODP zoning not then being reviewed, to submit in that initial stage and then defer making a decision on those submissions when the zoning relief was ready for review. Instead, the QLDC is re-opening zonings settled under earlier stages, including land where there was no submission even made to the Stage 1 or 2 zonings applied.

¹ QLDC Strategic Overview for all of Stage 3 at parts 3, 4 & 5.

² [2020] NZEnvC 40 at para [19] & "Annexure A".

³ For example the Rural Visitor Zone or Industrial Zone.

⁴ Although the Stage 1 zoning is not yet operative.

- 13 The s.32 evaluation report for Chapter 18A notes receipt⁵ of a “proposal relating to a large area of land adjoining the Victoria Flats Landfill”⁶, yet this proposal was not a Stage 1 submission opposing the Rural zoning, the land has not been notified as part of Stage 3 and no variation has been initiated to accommodate the proposal and the land which it relates too.

QLDC Section 42A Report

- 14 The QLDC Section 42A report⁷ provides an accurate description of the subject land and surrounding area as well as recording other relevant planning information⁸. It provides separate plans and aerial images depicting the extent of CCCL’s rezoning submission, the underlying zoning and designation. The plan contained in Appendix 1 to this evidence overlays these three areas.

Designation #76

- 15 It can be seen from the plan in Appendix 1 that the CCCL rezoning proposal surrounds the landfill operation where it shares a boundary with the landfill operation in the designation for a length of approximately 1.2km. 28% of the land within the CCCL rezoning proposal appears to be within the landfill designation and the remainder of the rezoning is located within 1km of the landfill operation.
- 16 The purpose of the designation is for solid waste disposal and associated management activities. The designation includes an associated buffer zone and access road to ensure that activities which could be adversely affected by the landfill operation do not establish in the immediate landfill vicinity⁹ with particular reference to mitigating effects of odour, dust¹⁰ and noise¹¹.

Trade Competition and directly affected

- 17 The strikeout application filed by CCCL correctly identifies that SRL was successful in rezoning part of its landholding near the intersection of the

⁵ Presumably prior to notification of Stage 3.

⁶ QLDC Section 32 Evaluation, General Industrial Zone at paragraph [7.68].

⁷ QLDC Section 42A report, General Industrial Zone at paragraph [9.19].

⁸ QLDC Section 42A report, General Industrial Zone at page [98].

⁹ RM970116 AEE, Volume 1, “Preface” at paragraph [8] – Appendix 2.

¹⁰ RM970116 AEE, Volume 1, page 23 at paragraph [10] – Appendix 2.

¹¹ RM970116 AEE, Volume 1, page 25 at paragraph [1] – Appendix 2.

Remarkables Ski Area access road with State Highway 6 to an Industrial Zone, and that this land has not yet been developed pursuant to that zoning¹². Further, CCCL submits¹³ in its capacity as an investor/developer of industrial zoned land, SRL is a trade competitor of CCCL, in the sense discussed by the Environment Court in the decision of *Bunnings Limited v Queenstown Lakes District Council*¹⁴.

- 18 The memorandum from SRL in response to CCCL's strikeout application accepts that SRL is a trade competitor, but submits that it stands to be *directly* affected by CCCL's rezoning submission, which would if allowed, result in the siting of incompatible activities next to/in close proximity to the Landfill and lead to possible constraints or restrictions on legitimate Landfill operations¹⁵.
- 19 Pursuant to Clause 6(4) of the First Schedule to the RMA SRL may only make a submission if it is **directly affected** by an **effect of the proposed plan** (or in this case, a submission made to it) that **adversely affects the environment** and does not relate to trade competition or the effects of trade competition (emphasis mine).
- 20 Examining some of these key terms, effects arising from the CCCL submission are traffic, noise and reverse sensitivity¹⁶ (odour and noise). As defined,¹⁷ "Environment" includes natural and physical resources. The Landfill is a physical resource.
- 21 In my opinion, to be directly affected requires the effect to be experienced by and/or impact SRL as operator of the Landfill. There is also spatial factor here in that SRL needs to show it is located sufficiently proximate to the CCCL land so as to be directly affected by an effect. SRL is the operator under contract and owner of the machinery / trucks required to operate the Landfill. Reverse

¹² Memorandum of Counsel for Cardrona Cattle Company Ltd seeking to strike out further submission filed by Scope Resources Ltd, 16th March 2020 at paragraph [4].

¹³ Memorandum of Counsel for Cardrona Cattle Company Ltd seeking to strike out further submission filed by Scope Resources Ltd, 16th March 2020 at paragraph [5].

¹⁴ [2018] NZEnvC 135.

¹⁵ Memorandum of Counsel for Scope Resources Ltd opposing strike out of further submission, 24th March 2020 at paragraph [7].

¹⁶ Minute of Chair #10, Stage 3 Hearing Panel at paragraph [22].

¹⁷ S2 RMA.

sensitivity effects will by reason of proximity have their genesis in any number of activities sought to be enabled by CCCL's re-zoning submission.

Relevant Effects and how SRL is directly affected

- 22 The activities enabled by CCCL's re-zoning submission are listed within the permitted and controlled activities of the Chapter 18A framework¹⁸ combined with the departures from this framework set out within the CCCL submission¹⁹.
- 23 Based upon the provisions of Chapter 18A combined with the bespoke provisions sought by CCCL I believe there are a number of effects that directly affect SRL:

Traffic

- 24 Traffic Engineer, Mr Jason Bartlett has undertaken an assessment of the potential traffic generation of the requested rezoning and the effects this may have on access to the Landfill and surrounding road network.
- 25 Mr Bartlett's assessment of traffic generation includes a developable area²⁰ of the proposed re-zoning that has been based upon the original 91.4ha within the area sought by the submission less any land that has topographical constraints such as steep topography, a waterbody or an overhead transmission line which is likely to prevent buildings within 25m of its centreline. The gross total developable land is estimated to be 72ha. A 30% loss of land through roading and servicing has been used to estimate 50.4ha of net developable land within the CCCL submission.
- 26 Mr Bartlett estimates traffic generation associated with CCCL's re-zoning submission to be between 14,000vpd and 38,000vpd and he notes that the current (2020) traffic flow on SH6 at the Ladies Mile Highway (between Howards Drive and Lower Shotover Roundabout) is approximately 17,000vpd²¹ which has necessitated future SH6 upgrading.

¹⁸ PDP Chapter 18A, General Industrial Zone, Table 18A.4.

¹⁹ Cardrona Cattle Company Ltd, Submission 3345 at paragraph [10].

²⁰ Mr Jason Bartlett, Statement of Evidence, 29th May 2020 at paragraph [11].

²¹ Mr Jason Bartlett, Statement of Evidence, 29th May 2020 at paragraphs [24] & [25].

- 27 Mr Bartlett believes the re-zoning submission will compromise the current level of service and safety of this local road and its intersection with SH6²². Any loss in intersection safety is a direct and adverse affect upon the truck movements required for the continued operation of the landfill.
- 28 In addition, Mr Bartlett states vehicle movements required for the current and continued operation of the Landfill will incur significant delays at the access to the Landfill and the intersection of Victoria Flats Road with SH6²³.
- 29 Based upon the evidence of Mr Bartlett, I believe the volume of traffic associated with CCCL's re-zoning submission will have an adverse effect upon the existing road network which SRL relies upon for the efficient and continued operation of the Landfill.

Noise

- 30 The CCCL submission seeks to enable custodial residential living, workers accommodation, visitor accommodation and to remove all prohibited activities which includes residential activity, residential units and residential flats.
- 31 The establishment of each phase of the landfill operation requires the use of heavy machinery to excavate and prepare each landfill pit while the daily operation of the landfill requires the use of heavy machinery at the face of the landfill as well as truck movements associated with the delivery of waste.
- 32 The CCCL submission area is 20m from the boundary of the landfill. Stage 2, phase 3 and 4 of the landfill operation as consented²⁴ is 15m from the landfill boundary and the current operation (Stage 2 phase 2) is 240m from the boundary of the landfill boundary. Pursuant to the designation controls²⁵ the landfill must not exceed 65 dB LAeq (15min) measured at the boundary of the landfill. The CCCL industrial re-zoning enables activities that then require a 50/40 dB L noise limit²⁶ measured from the notional boundary being the closer

²² Mr Jason Bartlett, Statement of Evidence, 29th May 2020 at paragraph [35].

²³ Mr Jason Bartlett, Statement of Evidence, 29th May 2020 at paragraph [36].

²⁴ RM970116 AEE, Appendix B "Provisional Staged Management Plan Drawings" – Appendix 3.

²⁵ PDP Designation # 76, condition 8 (a)

²⁶ PDP Designation # 76, condition 8 (a), Daytime (0800-2000 hours) 50 dB LAeq(15min) and Night time (2000-0800 hours) 40 dB LAeq(15min)

of either a 20m setback from any site of a residential unit or the legal boundary²⁷.

- 33 These boundaries are depicted in Appendix 4 to my evidence where it can be seen that the 50 dB noise limit is measured from a location only 20m from the landfill site boundary (where the 65 dB measurement is undertaken), yet it is 15 dB more restrictive.
- 34 The landfill buffer area seeks to provide a margin of rural land around the landfill operation intended for the limited purpose of grazing stock²⁸. Residential use of rural land is a discretionary activity and prohibited under the designation²⁹.
- 35 The proposed activities enabled by the CCCL re-zoning submission could result in residential units establishing close to the landfill boundary. With the 20m separation between acoustic controls and the 15 dB difference this could result in the landfill having to reduce its authorised noise emission level at the boundary of the landfill to comply with the 50/40 dB³⁰ restriction. I believe this is a direct and adverse affect on the continued operation of the Landfill.

Noise & Odour and reverse sensitivity

- 36 As stated, the CCCL industrial re-zoning requires a 50/40 dB noise limit³¹ measured from the notional boundary of the residential type activities enabled by the submission. The CCCL submission area is 35m from Stage 2, phase 3 and 4 of the landfill operation as consented³². This results in the acoustic measurement for the 40/50 dBLAeq (15 mins) being taken at a minimum 35m from landfill activities.
- 37 Based upon the nature of the landfill activities and the distance to the notional boundary, I believe it is unlikely that the landfill operation can comply with condition 8 of the designation for noise received at the notional boundary of any residential unit and complaints would likely follow.

²⁷ PDP Definitions Chapter

²⁸ RM970116 AEE, Volume 1, page 25 at paragraph [1] – Appendix 2.

²⁹ RM970116 AEE, Volume 1, page xxii at paragraph [1] – Appendix 2.

³⁰ PDP Designation # 76, condition 8 (a), Daytime (0800-2000 hours) 50 dB LAeq(15min) and Night time (2000-0800 hours) 40 dB LAeq(15min)

³¹ PDP Designation # 76, condition 8 (a), Daytime (0800-2000 hours) 50 dB LAeq(15min) and Night time (2000-0800 hours) 40 dB LAeq(15min)

³² RM970116 AEE, Appendix B “Provisional Staged Management Plan Drawings” – Appendix 3.

- 38 Landfills emit gas which has an objectionable odour. The evidence of Dr Rissman confirms that the Landfill site is especially sensitive to odour accumulation, the landfill buffer is an important mitigating factor³³ and should this buffer area be occupied by members of the public it is highly likely they will be exposed to odorous trace gases and this is likely to result in a significant increase in the number of odour complaints³⁴.
- 39 Noise and odour are both objectionable nuisances. They are both effects that were considered as part of the resource consent (RM970116) to establish the landfill in its current location and part of the notice of requirement that established the landfill buffer area within designation 76 in order to distance any activities which will experience these effects / nuisances.
- 40 In deliberating on RM970116, the local and regional authorities were mindful there would be certain activities which should not be enabled within close proximity of the landfill operation. The landfill buffer area thus sought to provide a margin of rural land around the landfill operation that was intended to be used for the limited purpose of grazing stock³⁵. Certain activities were specified as being prohibited within the buffer area. These include³⁶:
- i. All buildings, and activities associated with residential and other accommodation purposes;
 - ii. Buildings and activities associated with the public or private assembly of people;
 - iii. Commercial activities such as the display, offering, provision, sale or hire of goods, equipment, takeaway food bars, professional, commercial and administrative offices, service stations, motor vehicles sales and the sale of liquor; and
 - iv. Recreational activities, including land and/or buildings for the primary purpose of recreation and/or entertainment.
- 41 This illustrates to me that the local and regional authorities were cognisant in the conception of the designation that certain activities if not prohibited in the buffer area, could establish there and result in constraints or restrictions on landfill operations.

³³ Dr Clint Rissman, Statement of Evidence, 29th May 2020 at paragraph [5.2].

³⁴ Dr Clint Rissman, Statement of Evidence, 29th May 2020 at paragraph [5.4].

³⁵ RM970116 AEE, Volume 1, page 25 at paragraph [1] – Appendix 2.

³⁶ RM970116 AEE, Volume 1, page xxii at paragraph [1]– Appendix 2.

- 42 The CCCL submission seeks to replace the rural zone which underpins the landfill buffer area and other land close to the landfill operation with an industrial zone. Based upon the provisions of Chapter 18A combined with the bespoke provisions sought by CCCL the following activities are enabled within the buffer area which are precluded by designation 76:
- a) Custodial residential living, workers accommodation and visitor accommodation.
 - b) Retail sales.
 - c) Office, Retail and Commercial activities that are ancillary to Industrial or Service activities.
 - d) Commercial Recreation and Recreational activities.
 - e) Community activities and Community Facilities.
 - f) To remove all prohibitive activities³⁷ which enables residential activity, residential units and residential flats.
- 43 As above, the landfill operates 35m from the boundary of the land the subject of the CCCL submission.
- 44 I believe the prohibition of certain activities in the Landfill Buffer under RM970116 coupled with the buffers intended use for grazing confirms that the risk these activities represent in constraining or restricting landfill operations is beyond a 'potential', remote or indirect effect and is inevitable as well as an effect that will directly affect SRL as the operator of the Landfill. These reverse sensitivity effects will in my opinion make consenting Landfill activities more complex with the potential for a greater number of parties involved in the consenting process. Whether via the consenting process or otherwise I believe it will be inevitable that there will be complaints and pressure to constrain or limit Landfill activities such as hours of operation, noise/traffic movements and odour generation.

Conclusion

- 45 Based upon the expert evidence of Mr Bartlett, I believe the volume of traffic associated with CCCL's re-zoning submission and the resulting loss of service and safety will have a direct and adverse affect upon the existing road network which SRL relies upon for the efficient and continued operation of the landfill.

³⁷ Cardrona Cattle Company Ltd, Submission 3345 at paragraph [10 a].

- 46 Given the intended rural land use of the landfill buffer area and proposed activities enabled by the CCCL re-zoning submission, the 20m separation between acoustic controls coupled with the 15 dB difference, I believe this is a direct and adverse affect on the continued operation of the landfill.
- 47 Based upon the nature of the landfill activities and the distance to the notional boundary, I believe it is unlikely that the landfill operation can comply with condition 8 of the designation for noise received at the notional boundary of any residential unit and complaints would likely follow.
- 48 Based upon the expert evidence of Dr Rissman, I believe the Landfill site is especially sensitive to odour accumulation, should the landfill buffer area be occupied by members of the public this is likely to result in a significant increase in the number of odour complaints resulting in a direct and adverse affect by pressure to constrain or limit Landfill activities such as hours of operation and odour generation.

Nick Geddes

5th June 2020